

REMARKS

Responsive to the requirement for restriction, posted February 2, 2009, identifying three Groups of claims, Group I (claims 13-16, drawn to a decorative band), Group II (claim 17, drawn to a strip of film material), Group III (claims 18-19, drawn to a food packaging), and Group IV (claims 21-23, drawn to a method). Applicants provisionally elect Group I, claims 13-16, drawn to a decorative band, with traverse.

Amendments to the Application

Claims 13-22 are amended to address antecedent basis issues and further with formal revisions in consideration of U.S. practice and preferences. In particular, claims 17, 18, 20 and 22 are revised as independent claims compliant with U.S. form. The amendments to claims 13-22 do not introduce new matter.

Claim 23 is canceled without prejudice.

The Requirement for Restriction is Traversed

The restriction is respectfully traversed at least for the following reasons.

The Official Action states that Groups I, II, III, and IV do not relate to a single general inventive concept under PCT Rule 13.1 because they lack the same or corresponding special technical features as described under PCT Rule 13.2. In particular, the Official Action states that a special technical relationship common among the inventive Groups has been discovered previously in Benzon-Petersen et al. (US Patent No.

3,620,871; "BENZON"), and therefore the claims lack unity of invention.

A restriction is properly required under PCT 13.1 where an application contains inventions of groups of inventions which are not so linked as to form a single general inventive concept, such that they lack the same or corresponding special technical features, and wherein special technical features refers to those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art.

The Official Action identifies the special technical relationship of the invention as being a decorative band intended for surrounding a food packaging. The Official Action states that BENZON teaches a number of labels placed at different sidewalls together that in each of them is connected with a bottom label, the labels being attached to the plastic package by means of an adhesive sensitive to heat and applied to their inside. The Official Action concludes that the feature identified as to the invention can thus not be "special", and accordingly Groups I, II, III, and IV do not relate to a single general inventive concept.

In response, it is firstly noted that during the international phase of the instant application (PCT/FR2004/002698), the International Searching Authority did not find lack of unity of invention with respect to the claims

corresponding to the claims of the present national stage application, as all of the claims were addressed in the International Search Report and International Preliminary Report on Patentability (the "Search Report"). Thus, examination of all the pending claims in this national stage application cannot reasonably be construed to impose an undue burden on the Examiner. Moreover, according to article 27 (1) PCT, "[n]o national law shall require compliance with requirements relating to the form or contents of the international application different from or additional to those which are provided for in this Treaty and the Regulations." (See MPEP § 1850.)

An English translation of the Search Report is appended to this response for the Examiner's convenience.

It is further respectfully submitted that, as admitted by the Search Report, claim 13 is not anticipated by BENZON. Independent claim 13 relating a decorative band recites "the minimum width L2 being between one third and two thirds of the maximum width L1". Among the twelve embodiments of BENZON, only the embodiments 25 on the left and 27 on the right of Figure 8 disclose labels 32 and 33 which are joined together by their sides. In the embodiment 27, it is clear that the narrow portion 35 visible between labels 33 has a width of substantially less than one third of the maximum width of the labels 33.

In view of the embodiment 25 on the left, a value of the minimum width of a portion extending along the adjacent sides

of labels 32 cannot be greater than two thirds of the maximum width, as this value is out of the claimed range and moreover does not correspond to the disclosure of BENZON. Indeed, the embodiments of Figure 8 must be interpreted in view of the corresponding paragraph of the description (col. 2, lines 22-33). In view of this paragraph, the connecting portion between the labels 32 of the embodiment 25 is a narrow ribbon 34 which should have the same width as the portion 35 of embodiment 27, and consequently must be substantially less than one third.

In addition it is respectfully submitted that the independent claim 13 is drawn to a decorative band and not to labels like those disclosed by BENZON. The expression "decorative band" is clearly explained (e.g., specification page 1, lines 16-27). A decorative band must completely surround the periphery of the packaging to have ends that overlap or at least abut. This implies technical advantages, like the steadiness of the fixation to the packaging and the possibility to glue only partially the rear face of the band.

On the other hand, a "label" implies to be glued or bonded to the package over to its whole rear face in order to avoid a relatively easy scrapping from the package. The labels disclosed by BENZON which are bonded to the package by heat activation bonding, correspond to this definition of a label, even if BENZON's labels are linked together by a bottom label or a narrow label ribbon 34 or 35.

Therefore, it is respectfully submitted that independent claim 13 relates to a decorative band which is a subject matter distinctive from "labels" as disclosed by BENZON.

Moreover, the last portion of independent claim 13 recites that "the first edge is rectilinear and substantially parallel to a longitudinal axis of the band", and hence provides a second feature which is clearly not disclosed by BENZON. The ten first embodiments of BENZON (fig. 14, 26 at the center of Figure 8) cannot disclose that feature, at least because it is impossible to determine a longitudinal axis for these sets of labels. For the embodiment 27 on the right of Figure 8, it is clear that neither the above nor the lower edge of the labels 33 linked by the narrow ribbon 35 can define a rectilinear edge. As for the last embodiment 25 on the left of Figure 8, it is readily apparent that the lower edge of the set of labels 32 linked by the narrow strip 34 is not rectilinear. The narrow strip 24 is not visible on that Figure, but in view of the description (column 2, lines 28-31), it is apparent that it must be the same narrow strip as the strip 35 located in the middle portion of the labels 33. Therefore, the narrow strip 34 should be approximately situated at the same location (the upper edge being probably situated at the end of the reference line 34) and consequently, the upper edge of each label 32 does not form a continuous rectilinear edge. An "edge" implies a continuous border line, mostly if that edge is the edge of a decorative band

due to the fixation of that kind of decorative means on a packaging and due to their process of manufacturing by automated machines.

Accordingly, it is respectfully submitted that the subject matter of claim 13 is distinct from BENZON. The present invention as claimed is directed to a decorative band and not a set of labels, and further, BENZON does not anticipate the claimed recitations relating to the minimal width range and to the rectilinear edge. Hence, the special feature identified by the Official Action has not been discovered previously, and thus, a special technical relationship exists among claim Groups I, II, III, and IV.

It is further respectfully submitted that one of skill would not look to BENZON to reduce the cost of packaging and to reduce the quantity of required raw material. The teaching of BENZON as to the embodiments 25 and 27 of Figure 8 clearly imply an increase of film material needed because a narrow ribbon (34 or 35) must be used in addition to the film material needed for the labels.

It is also respectfully submitted that BENZON is silent as to an automated manufacturing process, in particular regarding the way of putting the labels in place before the deep-drawing of the packages. One of skill would readily understand that BENZON's labels are not adapted to be transferred in a

manufacturing process such as that usual for decorative bands of rectangular shape.

Hence, nothing in the prior art cited could have taught one of skill that the claimed decorative band could be used with a manufacturing process similar to the process used for decorative bands of rectangular shape. The fact that a minimal width comprised between one third and two thirds as recited is effective for such a process is neither taught nor remotely suggested.

It is therefore respectfully submitted, based on all of the foregoing, that unity of invention is established between all the claims presented.

Withdrawal of the requirement for restriction as to Groups I, II, III, and IV is respectfully solicited.

From the foregoing, it will be apparent that Applicant has fully responded to the February 2, 2009 Official Action. In view of this, Applicant respectfully requests consideration of the claims on the merits, and their early passage to issue.

In order to expedite the prosecution of this case, it is requested that the Examiner telephone the attorney for Applicant at the number set forth below if the Examiner is of the opinion that further discussion of this case would be helpful.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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APPENDIX:

The Appendix includes the following item(s):

- ☒ - an English language copy of the International Search Report and International Preliminary Report on Patentability for PCT Application FR2004/002698.